

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 SENATE BILL 1637

By: Lerblance of the Senate

4 and

5 Terrill of the House

6  
7  
8 AS INTRODUCED

9 An Act relating to labor; providing for certain  
10 methods of payment for certain fees and fines;  
11 authorizing the Oklahoma Department of Labor to  
12 charge a convenience fee for credit or debit card  
13 payments; defining term; authorizing the Department  
14 to promulgate certain rules; providing for certain  
15 remittances by cash or money payment; requiring  
16 certain receipt; providing for full discharge of  
17 certain liability; providing for deposit of certain  
18 monies; authorizing certain assessment for certain  
19 returned checks or refused checks; authorizing the  
20 Department to file certain bogus check complaints;  
21 providing for certain funds collected by certain  
22 restitution program; providing short title; creating  
23 the Oklahoma Door-to-Door Sales Act; defining terms;  
24 requiring certain license from the Department of  
Labor to do business; providing for certain violation  
and penalty; providing for certain license fees;  
setting certain residency requirement; providing for  
application for licensure; requiring certain oath;  
requiring proof of certain insurance; providing for  
changes or alterations to coverage; making certain  
actions grounds for denial, revocation or suspension  
of license; requiring applicants to provide certain  
information; making certain perjury grounds for  
rescinding or not issuing license; requiring certain  
references of certain applicants; requiring certain  
information, signatures, affirmation and seal of  
certain applicants; requiring certain information,  
signature and affirmation of certain applicants;  
authorizing the Department of Labor to take certain

1 sworn statements; requiring certain investigation of  
2 applicants by Department; providing for ruling and  
3 the granting or rejection of application; requiring  
4 certain written reasons for rejection; stating what  
5 shall not be grounds for rejection; providing for  
6 certain appeal; requiring certain report; making  
7 report part of certain official records; requiring  
8 certain bond with application; providing for  
9 reduction in bond under certain circumstances;  
10 authorizing the Department to demand certain new  
11 bond; making certain action just cause for revocation  
12 and cancellation of license; requiring certain  
13 information to appear on a license; providing for  
14 certain change in information; requiring license to  
15 be posted; providing for certain change in management  
16 of a business; providing for duration of license;  
17 requiring certain notice of expiration; providing  
18 procedures for suspension, revocation or refusal to  
19 renew a license; providing procedures for complaints  
20 against a licensee; prohibiting transferals of  
21 license; providing for certain changes in a licensed  
22 business; providing for consent for certain persons  
23 to become connected to a license business; construing  
24 act; providing for sale of a franchise for a door-to-  
door business; requiring and providing procedures for  
the Department to enforce the act; authorizing the  
Department to promulgate certain rules; providing for  
certain violations and penalties; creating the Door-  
to-Door Sales Act Revolving Fund; stating what the  
fund shall consist of; providing for expenditures  
from the fund; amending 40 O.S. 2001, Sections 197.6,  
141.16, as amended by Section 1, Chapter 554, O.S.L.  
2004, 141.2, as amended by Section 1, Chapter 250  
O.S.L. 2002, 403, 412, 414, 452, 456, 463, and 469  
(40 O.S. Supp. 2007, Sections 141.16 and 141.2),  
which relate to the Boiler and Pressure Vessel Safety  
Act, the Oklahoma Minimum Wage Act, the Oklahoma  
Occupational Health and Safety Standards Act, the  
Oklahoma Asbestos Control Act and amusement ride  
safety; modifying size of certain required notice  
relating to the minimum wage; making language gender  
neutral; modifying certain fees relating to boilers  
and pressure vessels; providing for deposit of  
certain fees into the Safety Standards Revolving  
Fund; clarifying reference; modifying certain  
exemptions to the certain hot water heaters;  
modifying requirement relating to certain number of

1 accident victims; adding certain violations and  
2 penalties relating to the Oklahoma Occupational  
3 Health and Safety Standards Act; defining term;  
4 creating the Public Employee Occupational Safety and  
5 Health Revolving Fund; stating what the fund shall  
6 consist of; providing for expenditures from the fund;  
7 establishing certain criteria for prioritizing  
8 certain consultations; authorizing certain fee for a  
9 duplicate license relating to the Oklahoma Asbestos  
10 Control Act; creating the Oklahoma Asbestos Control  
11 Revolving Fund; stating what the fund shall consist  
12 of; providing for expenditures from the fund;  
13 providing for certain violations and penalties  
14 relating to the Oklahoma Asbestos Control Act; adding  
15 certain fees relating to certain amusement parks;  
16 creating the Oklahoma Safety Standards Revolving  
17 Fund; stating what the fund shall consist of;  
18 providing for expenditures for the fund; providing  
19 for certain subpoena powers and injunctive relief  
20 relating to the Amusement Ride Safety Act;  
21 authorizing assessment of certain administrative  
22 fine; providing for appeal of certain actions by the  
23 Commissioner of Labor; providing for certain hearing;  
24 providing for codification; and providing an  
effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 12 of Title 40, unless there is  
created a duplication in numbering, reads as follows:

A. All remittances of fees and fines required to be paid to the  
Oklahoma Department of Labor, pursuant to state law, shall be made  
to the Department by bank draft, check, cashier's check, money  
order, cash, or nationally recognized credit card or debit card. If  
payment is made by credit or debit card, the Department may add an

1 amount equal to the amount of the service charge incurred by the  
2 Department, as a convenience fee for the acceptance of the credit or  
3 debit card. For purposes of this subsection "nationally recognized  
4 credit or debit card" means any instrument or device, whether known  
5 as a credit card, credit plate, charge plate, debit card, or by any  
6 other name issued with or without fee by an issuer for the use of  
7 the cardholder in obtaining goods, service, or anything of value on  
8 credit which is accepted by over one thousand merchants in this  
9 state. The Department shall promulgate rules to allow for the  
10 implementation of payment of fees by credit or debit card.

11 B. All remittances by bank draft, check, cashier's check, or  
12 money order, collected pursuant to any law, Department rule, or  
13 order, shall be made payable to the Oklahoma Department of Labor.  
14 The Department shall issue its receipt for cash or money payment to  
15 the remitter. No remittance other than cash shall be in full  
16 discharge of liability due the Department unless and until it shall  
17 have been paid in cash. All money collected, including service or  
18 convenience fees, shall be deposited with the State Treasurer of  
19 this state.

20 C. There shall be assessed, in addition to any other penalties  
21 provided for by law, an administrative service fee of Twenty-five  
22 Dollars (\$25.00) on each check returned to the Department or any  
23 agent by reason of the refusal of the bank upon which the check was  
24 drawn to honor the same.

1 D. Upon the return of any check by reason of the refusal of the  
2 bank upon which the check was drawn to honor the same, the Oklahoma  
3 Department of Labor may file a bogus check complaint with the  
4 appropriate district attorney who shall refer the complaint to the  
5 Bogus Check Restitution Program established by Section 111 of Title  
6 22 of the Oklahoma Statutes. Funds collected by the program, after  
7 collection of the fee authorized by Section 114 of Title 22 of the  
8 Oklahoma Statutes, shall be transmitted to the Department and  
9 credited to the liability for which the returned check was drawn and  
10 to the administrative service fee provided by this section.

11 SECTION 2. NEW LAW A new section of law to be codified  
12 in the Oklahoma Statutes as Section 62 of Title 40, unless there is  
13 created a duplication in numbering, reads as follows:

14 This act shall be known and may be cited as the "Oklahoma Door-  
15 to-Door Sales Act".

16 SECTION 3. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 62.1 of Title 40, unless there  
18 is created a duplication in numbering, reads as follows:

19 As used in the Oklahoma Door-to-Door Sales Act:

- 20 1. "Commissioner" means the Commissioner of Labor or a  
21 designee;
- 22 2. "Department" means the Oklahoma Department of Labor; and
- 23 3. "Door-to-door sales business" means an individual or  
24 business entity performing the sale, lease, or rental of consumer

1 goods or services, whether under single or multiple contracts, in  
2 which the seller or the seller's representative personally solicits  
3 the sale, including those in response to or following an invitation  
4 by the buyer, and the buyer's agreement or offer to purchase is made  
5 at a place other than the place of business of the seller. Door-to-  
6 door sales business shall not include any nonprofit organization  
7 organized and operated exclusively for fraternal, religious, civic,  
8 charitable or educational purposes. Door-to-door sales business  
9 shall not include any local or nationally recognized newspapers.

10 SECTION 4. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 62.2 of Title 40, unless there  
12 is created a duplication in numbering, reads as follows:

13 A. No person shall open, operate or maintain a door-to-door  
14 sales business in this state without first procuring a license from  
15 the Oklahoma Department of Labor. Any person who shall open or  
16 conduct any such business without first having procured a license  
17 shall be guilty of a misdemeanor and, upon conviction, shall be  
18 punished as provided in Section 15 of this act. Application for the  
19 first license to be issued to any business following the effective  
20 date of this act shall be accompanied by a fee of Two Hundred Fifty  
21 Dollars (\$250.00). Renewal applications for a license to be issued  
22 to any employment agency shall be accompanied by a fee of Two  
23 Hundred Fifty Dollars (\$250.00). The license fees shall not be  
24

1 returnable, and shall be placed in the Door-to-Door Sales Act  
2 Revolving Fund as established in Section 16 of this act.

3 B. Every applicant for a license shall have been a resident of  
4 the State of Oklahoma for at least one (1) year immediately  
5 preceding the filing of the application. In the case of corporation  
6 applicants, at least one of the incorporators and one of the  
7 principal officers thereof, together with the person who is to be  
8 responsible for the general management of the office shall meet the  
9 requirement as to Oklahoma residence.

10 SECTION 5. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 62.3 of Title 40, unless there  
12 is created a duplication in numbering, reads as follows:

13 A. Every applicant for a license shall file with the Oklahoma  
14 Department of Labor a written application stating the name and  
15 address of the applicant, the street and number of the building in  
16 which the business is to be conducted, the name of the person who is  
17 to be responsible for the general management of the office, the  
18 names and addresses of all those financially interested therein, the  
19 name under which the business is to be conducted and whether or not  
20 the applicant is pecuniarily interested in any other business or  
21 businesses and, if so, the nature of the interest and where carried  
22 on. The applicant shall also state on the application whether or  
23 not the applicant is engaged at the time of making application or at  
24 any previous time has been engaged or financially interested in a

1 door-to-door sales business in Oklahoma or any other state and, if  
2 so, the name and address of such business and the dates the  
3 applicant was so engaged or interested. If the applicant is now or  
4 has previously been employed in any door-to-door sales business, the  
5 applicant shall state the name and address of the business, the name  
6 of the person conducting the business, the dates employed and in  
7 what capacity. All applications shall be sworn to, under oath.

8 B. Every applicant for a license shall file with the Department  
9 proof of workers' compensation insurance coverage. Any changes or  
10 alterations to workers' compensation insurance coverage shall be  
11 filed with the Oklahoma Department of Labor within thirty (30) days  
12 of the change or alteration. Failure to provide adequate proof of  
13 workers' compensation insurance coverage or failure to file notice  
14 of a change or alteration to workers' compensation insurance  
15 coverage shall be grounds for denial, revocation or suspension of a  
16 license.

17 C. All applicants shall clearly state if they have operated or  
18 been employed by a door-to-door sales business in Oklahoma or any  
19 other state within the past fifteen (15) years and, if so, under  
20 what authority; and if ever cited for cause, give the final  
21 disposition of the breach of law or regulations charged governing  
22 the business or employment. If the applicant should be found guilty  
23 of perjury as to any material fact, after issuance of a license by  
24 the Department, after exhaustion of applicant's right of appeal, the

1 Department shall rescind the license immediately thereafter, and no  
2 license shall subsequently be issued to the applicant.

3 D. The applicant shall give as reference the names and  
4 addresses of at least three (3) persons of reputed business or  
5 professional integrity. If the applicant is a corporation, the  
6 application shall state the names and addresses of the officers and  
7 directors of the corporation and shall be signed and sworn to by the  
8 president and secretary, with seal affixed. If the applicant is a  
9 copartnership, the application shall state the names and addresses  
10 of all partners therein and shall be signed and sworn to by all of  
11 them. The Department shall be qualified to take sworn statements of  
12 applicants, under oath.

13 SECTION 6. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 62.4 of Title 40, unless there  
15 is created a duplication in numbering, reads as follows:

16 A. Upon the filing of an application for the first license  
17 after the effective date of this act, as herein provided, the  
18 Oklahoma Department of Labor shall cause an investigation to be made  
19 of the applicant and all those financially interested therein and  
20 shall finally rule on the application within thirty (30) days after  
21 the application is filed. Unless the application shall be rejected  
22 by the Department on the grounds that the applicant or associated  
23 party or parties have been convicted of a felony, or for other good  
24 and sufficient reason within the meaning and purpose of this act,

1 the application shall be granted. If the application is rejected,  
2 the Department shall state in the written order the specific reasons  
3 for the rejection. That there are already an adequate number of  
4 licensed door-to-door sales businesses shall not be grounds for  
5 rejecting a license application. An appeal from an order of the  
6 Department rejecting an application for any reason other than  
7 conviction of a felony may be taken to the district court of the  
8 county of the applicant's residence in accordance with the  
9 Administrative Procedures Act.

10 B. A detailed report of the investigation and the action taken  
11 by the Department shall be made in writing and become a part of the  
12 official records in the Department's office.

13 SECTION 7. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 62.5 of Title 40, unless there  
15 is created a duplication in numbering, reads as follows:

16 Every initial application for a license shall be accompanied by  
17 a bond in the sum of Five Thousand Dollars (\$5,000.00), issued by a  
18 duly licensed surety company authorized to do business in Oklahoma,  
19 to be approved by the Oklahoma Department of Labor and filed of  
20 record in the Department, which bond shall be conditioned upon the  
21 applicant's complying with all the provisions of this act. Upon  
22 completion of one year of operation, the amount of the bond shall be  
23 reduced to Three Thousand Dollars (\$3,000.00) and shall remain fixed  
24 at that amount until the completion of two (2) years of operation,

1 at which time, the amount of the bond shall be reduced to One  
2 Thousand Dollars (\$1,000.00). The bond shall remain at One Thousand  
3 Dollars (\$1,000.00) so long as the business remains under the  
4 management of the originally licensed operator. If at any time, in  
5 the opinion of the Department, any of the sureties shall become  
6 irresponsible, the person holding the license shall, upon written  
7 notice and demand from the Department, furnish a new bond, subject  
8 to the provisions of this section. Failure to furnish a new bond  
9 within thirty (30) days after receipt of the notice and demand  
10 shall, in the discretion of the Department, constitute just cause  
11 for revocation of the license, and each license when revoked shall  
12 be obtained by the Department for cancellation.

13 SECTION 8. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 62.6 of Title 40, unless there  
15 is created a duplication in numbering, reads as follows:

16 A. There shall appear on the license the name of the licensee,  
17 the location of the office where the door-to-door sales business is  
18 to be conducted, the name of the person who is to be charged with  
19 the general management and the precise name under which the business  
20 is to be carried on. In the event of a change in location of the  
21 office, the Oklahoma Department of Labor shall be notified within  
22 ten (10) days, and the license shall be endorsed to show the correct  
23 address. Each license shall be numbered and dated and posted in a  
24 conspicuous place in the office of the business.

1 B. In the event the services of the person charged with the  
2 general management of the business are terminated within the license  
3 year, the licensee shall so advise the Department, and the name of  
4 the person taking over the management shall be substituted on the  
5 license for that of the former manager so that at all times the  
6 person charged with general management of the employment agency  
7 shall be known to the Department and shall appear on the license.

8 SECTION 9. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 62.7 of Title 40, unless there  
10 is created a duplication in numbering, reads as follows:

11 A. Every license issued by the Oklahoma Department of Labor  
12 pursuant to this act shall remain in force until the thirtieth day  
13 of June after its issuance, unless sooner surrendered, suspended or  
14 revoked.

15 B. The Department shall notify all license holders of the  
16 expiration date of their initial licenses at least ten (10) days  
17 prior thereto. The Department shall not be required to notify  
18 license holders of the expiration of renewed licenses. Application  
19 for renewal shall be accompanied by the required license fee and  
20 bond.

21 SECTION 10. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 62.8 of Title 40, unless there  
23 is created a duplication in numbering, reads as follows:

24

1 In the event the Oklahoma Department of Labor shall find that a  
2 business has violated any of the provisions of this act, or that any  
3 other good and sufficient reason therefor has arisen within the  
4 meaning and purpose of this act, it may suspend or revoke a license  
5 or refuse to grant a new license upon the termination thereof,  
6 provided that no action shall be taken until a written notice has  
7 been served on the business specifying the charges against the  
8 business, and a fair public hearing pursuant to the provisions of  
9 the Administrative Procedures Act, has been given the business  
10 within thirty (30) days after the written notice has been posted by  
11 registered mail to the licensee. If, after the hearing, the  
12 Department shall find cause to suspend, revoke or refuse to issue a  
13 license, the business shall be given written notice of the  
14 Department's decision and the basis therefor, which decision shall  
15 become final at the end of thirty (30) days from the date of the  
16 notice, unless during the thirty-day period the licensee shall make  
17 an appeal to the district court of the county in which the license  
18 was issued from the Department's order, with opportunity for a stay  
19 of execution of the Department's order by the district court.

20 SECTION 11. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 62.9 of Title 40, unless there  
22 is created a duplication in numbering, reads as follows:

23 Every complaint against a door-to-door sales business shall be  
24 made in writing to the Oklahoma Department of Labor and shall be

1 | thoroughly investigated. A complete record of the investigation and  
2 | disposition of the complaint shall be made and become a permanent  
3 | record in the Department's office. Whenever, for any cause, a  
4 | license is revoked, the Department shall not within two (2) years  
5 | from the date of the revocation issue another license to the person  
6 | or business entity whose license has been revoked.

7 | SECTION 12. NEW LAW A new section of law to be codified  
8 | in the Oklahoma Statutes as Section 62.10 of Title 40, unless there  
9 | is created a duplication in numbering, reads as follows:

10 | No license granted under the terms of this act shall be  
11 | transferable, but a door-to-door sales business may, with the  
12 | approval of the Oklahoma Department of Labor, at any time  
13 | incorporate or admit a partner or partners to the business, or make  
14 | changes in the corporate name or sell the business. However, no  
15 | door-to-door sales business shall permit any person not mentioned in  
16 | the application for license to become connected with the agency,  
17 | either as a partner or as an officer of a corporation, unless the  
18 | Department's written consent thereto shall first have been obtained.  
19 | Such consent may be withheld only for any reason for which an  
20 | original application for license might have been rejected if the  
21 | person or persons in question had been mentioned therein. Nothing  
22 | in this act shall be construed to prevent any executor,  
23 | administrator or heir of a deceased licensee from carrying on the

24 |

1 business for the remainder of the period for which licensed, or  
2 pending its sale to a qualified purchaser.

3 SECTION 13. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 62.11 of Title 40, unless there  
5 is created a duplication in numbering, reads as follows:

6 No sale of a franchise for a door-to-door sales business in this  
7 state shall be legal, or enforceable in the courts of this state,  
8 unless and until the qualifications of the franchise purchaser shall  
9 first have been submitted to the Oklahoma Department of Labor as a  
10 prospective licensee under the provisions of this act, and approved  
11 by the Department.

12 SECTION 14. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 62.12 of Title 40, unless there  
14 is created a duplication in numbering, reads as follows:

15 It shall be the duty of the Oklahoma Department of Labor to  
16 enforce the provisions of this act. When informed of any violation  
17 thereof, it shall be the Department's duty to investigate. The  
18 Department may institute criminal proceedings for enforcement of  
19 this act, or apply to any court of competent jurisdiction and/or the  
20 Attorney General in order to seek injunctive relief on behalf of the  
21 State of Oklahoma.

22 SECTION 15. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 62.13 of Title 40, unless there  
24 is created a duplication in numbering, reads as follows:

1       The Oklahoma Department of Labor is hereby authorized to prepare  
2 and promulgate such rules as may from time to time be deemed  
3 necessary to carry out the provisions of this act. A violation of  
4 the rules shall be deemed to be a violation of this act, and any  
5 person convicted of violating the provisions of this act shall be  
6 guilty of a misdemeanor and shall be fined not less than Fifty  
7 Dollars (\$50.00), nor more than Five Hundred Dollars (\$500.00), or  
8 the fee charged for the service, whichever is greater, for each  
9 offense, or be imprisoned in the county jail for a period of not  
10 exceeding six (6) months, or both such fine and imprisonment, at the  
11 discretion of the court. Any person convicted of a second or  
12 subsequent violation of the provisions of this act shall be fined up  
13 to Five Thousand Dollars (\$5,000.00) in addition to any other  
14 penalty provided for by law.

15       SECTION 16.       NEW LAW       A new section of law to be codified  
16 in the Oklahoma Statutes as Section 62.14 of Title 40, unless there  
17 is created a duplication in numbering, reads as follows:

18       There is hereby created in the State Treasury a revolving fund  
19 for the Oklahoma Department of Labor to be designated the "Door-to-  
20 Door Sales Act Revolving Fund". The fund shall be a continuing  
21 fund, not subject to fiscal year limitations, and shall consist of  
22 all monies collected by the Department pursuant to the provisions of  
23 this section. Expenditures from the fund shall be made upon  
24 warrants issued by the State Treasurer against claims filed as

1 prescribed by law with the Director of State Finance for approval  
2 and payment.

3 SECTION 17. AMENDATORY 40 O.S. 2001, Section 197.6, is  
4 amended to read as follows:

5 Section 197.6 On and after August 1, 1965, every employer,  
6 subject to ~~this act~~ the Oklahoma Minimum Wage Act, shall post a  
7 notice or notices of the pertinent provisions of ~~this act~~ the  
8 Oklahoma Minimum Wage Act in such form as may be prescribed and  
9 furnished by the Commissioner. ~~Said~~ The notice shall be not less  
10 than ~~eleven (11) inches by seventeen (17)~~ eight and one-half (8 1/2)  
11 inches in size and shall be displayed in such a manner so as to be  
12 accessible to all employees in each establishment under the control  
13 of the employer. The Commissioner, or his or her duly authorized  
14 representative, may, for the purpose of determining whether such  
15 notice has been properly posted, enter, during business hours, upon  
16 the premises of any employer subject to ~~this act~~ the Oklahoma  
17 Minimum Wage Act.

18 SECTION 18. AMENDATORY 40 O.S. 2001, Section 141.16, as  
19 amended by Section 1, Chapter 554, O.S.L. 2004 (40 O.S. Supp. 2007,  
20 Section 141.16), is amended to read as follows:

21 Section 141.16

22 A. 1. a. Annual certificate of operation fee shall be as  
23 follows:

24 (1) with manway state inspector \$50.00

|    |  |                       |
|----|--|-----------------------|
| 1  | (2) without manway state inspector                       | \$25.00               |
| 2  | (3) any size special - or owner/user                     |                       |
| 3  | inspector  | \$25.00               |
| 4  | b. Only one certificate of operation fee per year may be |                       |
| 5  | charged; except an additional fee equal to the           |                       |
| 6  | certificate of operation fee may be charged for          |                       |
| 7  | witnessing a hydrostatic test required after repairs,    |                       |
| 8  | provided a fee equal to the total fees identified in     |                       |
| 9  | division (1) or (2) of subparagraph a of this            |                       |
| 10 | paragraph, whichever is appropriate, and subparagraph    |                       |
| 11 | f of paragraph 2 of this subsection may be charged       |                       |
| 12 | when the pressure-retaining item is not prepared and     |                       |
| 13 | ready pursuant to rules promulgated by the               |                       |
| 14 | Commissioner of Labor at the time of the inspection.     |                       |
| 15 | 2. <u>Other Fees:</u>                                    |                       |
| 16 | a. hydrostatic test of steam pipeline per day            | \$150.00              |
| 17 | (for each additional half-day or                         |                       |
| 18 | part thereof)  | \$75.00               |
| 19 | b. shop review fees                                      | <del>\$1,250.00</del> |
| 20 |  | <u>\$1,750.00</u>     |
| 21 | c. licensing fees  |                       |
| 22 | (1) repair, service, install (annually)                  | <del>\$50.00</del>    |
| 23 |  | <u>\$100.00</u>       |
| 24 |  |                       |

|    |   |                    |
|----|---|--------------------|
| 1  | (2) installer technician                  |                    |
| 2  | (one-time issuance)                       | <del>\$50.00</del> |
| 3  |   | <u>\$100.00</u>    |
| 4  | (3) boiler operator (biennially)          | <del>\$50.00</del> |
| 5  |   | <u>\$100.00</u>    |
| 6  | d. certificate of competency fee          | <del>\$15.00</del> |
| 7  |   | <u>\$25.00</u>     |
| 8  | e. examination fee                        | \$50.00            |
| 9  | f. boiler or pressure vessel inspection   |                    |
| 10 | fee for certificate inspections by        |                    |
| 11 | state inspectors                          | \$100.00           |
| 12 | g. authorized inspector services for weld |                    |
| 13 | repairs or alterations, per eight-hour    |                    |
| 14 | day or part thereof                       | \$300.00           |
| 15 | h. a fee as established by rule may be    |                    |
| 16 | assessed for the issuance of duplicate    |                    |
| 17 | licenses and certificates, not to exceed  | \$10.00            |

18 B. All institutions owned or operated by ~~the State of Oklahoma~~  
19 this state or its agencies or by any county, municipality or school  
20 district, and such institutions or agencies, and all owners or users  
21 of boilers or pressure vessels of historical significance as  
22 specified in subsection D of Section 141.5 of this title are exempt  
23 from the payment of any fees provided for in this section.

24

1 C. ~~1.~~ The Commissioner shall account for and ~~transfer all~~  
2 ~~fees, except for the fees listed in subparagraphs b, g, and h of~~  
3 ~~paragraph 2 of subsection A of this section, so received to the~~  
4 ~~State Treasury to the credit of the General Revenue Fund, together~~  
5 ~~with a detailed report of same.~~

6 ~~2.~~ ~~Shop review fees, authorized inspector services fees and~~  
7 ~~duplicate license and certificate fees shall be deposited to the~~  
8 ~~Department of Labor Revolving Fund created pursuant to Section~~  
9 ~~141.19~~ deposit all fees so received to the Safety Standards  
10 Revolving Fund created pursuant to Section 463 of this title.

11 ~~3.~~ ~~The shop review fees, authorized inspector services fees and~~  
12 ~~duplicate license and certificate fees shall be used for conducting~~  
13 ~~shop reviews, authorized inspector services and for administrative~~  
14 ~~costs.~~

15 D. All fees shall be paid directly to the Oklahoma Department  
16 of Labor.

17 SECTION 19. AMENDATORY 40 O.S. 2001, Section 141.2, as  
18 amended by Section 1, Chapter 250, O.S.L. 2002 (40 O.S. Supp. 2007,  
19 Section 141.2), is amended to read as follows:

20 Section 141.2 A. This act shall not apply to the following  
21 boilers, hot water heaters and pressure vessels:

22 1. Pressure vessels used for the transportation of compressed  
23 gases if constructed and operated in compliance with specifications  
24 and regulations of the United States Department of Transportation or

1 of the Corporation Commission of Oklahoma and any unfired pressure  
2 vessels used as containers for liquefied petroleum gases and subject  
3 to the jurisdiction of the United States Department of  
4 Transportation or the Oklahoma Liquefied Petroleum Gas  
5 Administration or successor agencies;

6 2. Pressure vessels containing air located on vehicles  
7 operating pursuant to regulations of other jurisdiction authorities;

8 3. Pressure vessels having an internal or external operating  
9 pressure not exceeding fifteen (15) pounds per square inch gauge -  
10 one hundred three (103) kilopascals gauge with no limit on size;

11 4. Pressure vessels having an inside diameter not exceeding six  
12 (6) inches (152mm) with no limitation on pressure;

13 5. Pressure vessels with a nominal water containing capacity of  
14 one hundred twenty (120) gallons or four hundred fifty (450) liters  
15 or less, to be used for domestic supply purposes, for containing  
16 water under pressure including those containing air, the compression  
17 of which serves only as a cushion;

18 6. Pressure vessels containing water heated by steam or other  
19 indirect means when none of the following limitations is exceeded:

20 a. a heat input of two hundred thousand (200,000)  
21 British thermal units per hour - fifty-eight thousand  
22 six hundred (58,600) watts,

23 b. a water temperature of two hundred ten degrees  
24 Fahrenheit (210° F), or

1           c.    a water containing capacity of one hundred twenty  
2                   (120) gallons - four hundred fifty (450) liters;

3           7.    Pressure vessels which may be classified as pressure  
4 containers which are integral parts of components of rotating or  
5 reciprocating mechanical devices such as pumps, compressors,  
6 turbines, generators, engines and hydraulic or pneumatic cylinders  
7 where the primary design considerations and/or stresses are derived  
8 from the functional requirements of the device, or structures whose  
9 primary function is the transport of fluids from one location to  
10 another within a system of which it is an integral part, i.e.,  
11 piping systems;

12           8.    Hot water supply boilers which are directly fired with oil,  
13 gas or electricity when none of the following limitations are  
14 exceeded:

15           a.    a heat input of two hundred thousand (200,000)  
16                   British thermal units per hour - fifty-eight thousand  
17                   six hundred (58,600) watts,

18           b.    a water temperature of two hundred ten degrees  
19                   Fahrenheit (210° F), or

20           c.    a water containing capacity of one hundred twenty  
21                   (120) gallons - four hundred fifty (450) liters;

22           9.    Boilers and pressure vessels under federal control and  
23 railroad locomotive boilers;

1           10. Pressure vessels located on remote sites and limited to oil  
2 and natural gas gathering facilities or processing plants that have  
3 fewer than ten buildings intended for human occupancy per one-fourth  
4 (1/4) square mile and where the closest building is at least two  
5 hundred twenty (220) yards from any vessel;

6           11. Pressure vessels in the care, custody and control of  
7 research facilities and used solely for research purposes which  
8 require one or more details of noncode construction or which involve  
9 destruction or reduced life expectancy of those vessels; and

10           12. Hot water supply heaters as defined in subparagraph f of  
11 paragraph 1 of Section 141.1 of this title, with piping connections  
12 to the potable water supply system which are intended to supply hot  
13 water for domestic or commercial purposes other than space heating.  
14 However, the Commissioner shall make routine inspections and issue  
15 necessary orders regarding ~~existing~~ hot water supply heaters located  
16 in facilities or installations owned or operated by the State of  
17 Oklahoma or its agencies, counties, municipalities or school  
18 districts.

19           B. The following boilers and pressure vessels shall be exempt  
20 from Sections 141.13 through 141.16 of this title:

21           1. Pressure vessels not exceeding fifteen (15) cubic feet in  
22 volume and two hundred fifty (250) pounds per square inch gauge  
23 pressure;

1           2. Low pressure steam boilers, hot water heating boilers, hot  
2 water supply boilers, ~~hot water supply heaters~~ or pressure vessels  
3 which are located in private residences or in apartment houses of  
4 less than six-family units; and

5           3. Pressure vessels operated entirely full of water or other  
6 liquid which is not materially more hazardous than water, provided  
7 the temperature of the vessel contents does not exceed one hundred  
8 fifty degrees Fahrenheit (150° F) or a pressure of two hundred (200)  
9 pounds per square inch gauge.

10          C. 1. Either a special inspector or an inspector licensed by  
11 the Department of Labor shall inspect exhibitor boilers on an annual  
12 basis when exhibitor boilers are being operated at public events.  
13 Exhibitor boilers maintained by owner/operators for private use and  
14 not for operation for the public shall be exempt from inspection by  
15 this state. Annual inspections by this state or a special inspector  
16 shall consist of the following:

- 17           a. an internal and external visual,
- 18           b. threaded openings in the boiler may be inspected, when  
19           deemed appropriate, by the inspector after conducting  
20           an internal and external visual,
- 21           c. a hydrostatic pressure test at one and twenty-five  
22           one-hundredths (1.25) times the maximum allowable  
23           working pressure,

24

- 1 d. the maximum allowable working pressure shall not  
2 exceed one hundred eighty-five (185) pounds per square  
3 inch (psi),
- 4 e. the ash pan and grates on a dry bottom vessel shall be  
5 removed to allow a visual inspection of the crown  
6 sheet,
- 7 f. a visual inspection of the crown sheet on wet bottom  
8 boilers,
- 9 g. all boilers shall have a fusible plug that is  
10 constructed to the American Society of Mechanical  
11 Engineers (ASME) code and indicated by an ASME marking  
12 on the filler material. It shall protrude one (1)  
13 inch into the water on a fireside fusible plug and no  
14 more than one (1) inch on a waterside fusible plug,
- 15 h. the pressure relief valve shall be National Board  
16 capacity certified,
- 17 i. a gage glass shall be present with a guard to protect  
18 the glass, drain valve or petcock, be piped to a safe  
19 location, and be operational,
- 20 j. try cocks shall be located in correlation to the  
21 minimum required water level,
- 22 k. a pressure gage that has been tested and proven  
23 accurate at the time of the annual pressure test,  
24

- 1           l.    all piping shall be schedule 80, black pipe (SA-53 B  
2                    or SA-105 B) from the boiler to the first valve,  
3           m.   the boiler shall be equipped with two means of  
4                    supplying feed water while under pressure, and  
5           n.    all welding to the boiler shall be done by a certified  
6                    repair organization as accredited and described in  
7                    Part RA of the National Boiler Inspection Code (NBIC).

8           2.   Exhibitor boilers shall have a nondestructive exam performed  
9           once every five (5) years for determining repairs and thin areas  
10           that need to be repaired. An inspector from the Department of Labor  
11           may perform a random nondestructive exam annually. Results from the  
12           exam may be used by the inspector to waive any time remaining on the  
13           five-year period. A nondestructive exam shall meet the following  
14           requirements:

- 15           a.    on a dry bottom boiler, no less than 150 readings  
16                    shall be taken,  
17           b.    on a wet bottom boiler, no less than 180 readings  
18                    shall be taken,  
19           c.    this exam shall include the areas surrounding the  
20                    crown sheet stays and any areas subject to corrosion,  
21           d.    a loss of metal that is greater than forty percent  
22                    (40%) of the original boiler plate thickness in an  
23                    area greater than three (3) inches in diameter shall  
24

1 be considered to be a thin area and shall need to be  
2 repaired prior to any operation,

3 e. exams shall be by a certified professional pursuant to  
4 applicable provisions of law of this state,

5 f. no exam shall be by a certified professional that has  
6 a vested interest in the boiler that is being  
7 examined,

8 g. the exam results shall be made available to the  
9 organization where the boiler is being exhibited, if  
10 requested, and

11 h. the exam results shall be made available at the time  
12 of the annual inspection to the inspector, if  
13 requested.

14 For purposes of this subsection, "exhibitor boiler" ~~shall mean~~  
15 means a boiler which is operated in this state for nonprofit  
16 purposes including, but not limited to, exhibitions, fairs, parades,  
17 farm machinery shows, or any other event of a historical or  
18 educational nature. An exhibitor boiler includes steam locomotives,  
19 traction and portable steam engines, and stationary boilers of the  
20 firetube, watertube, model or miniature, and may be riveted, riveted  
21 and welded, or all welded construction, if used within the state for  
22 nonprofit purposes.

23 D. Pressure vessels, associated piping, and connections located  
24 on oil and gas lease sites shall fall under the exclusive

1 jurisdiction of the Corporation Commission. The Corporation  
2 Commission shall be responsible for the inspection of oil and gas  
3 lease pressure vessels to ensure the vessels, associated piping, and  
4 connections are properly operated and maintained in a manner deemed  
5 appropriate by the Corporation Commission.

6 SECTION 20. AMENDATORY 40 O.S. 2001, Section 403, is  
7 amended to read as follows:

8 Section 403. A. Each employer shall furnish to each of his or  
9 her employees employment and a place of employment which are free  
10 from recognized hazards that are causing or are likely to cause  
11 death or serious physical harm to his or her employees, commensurate  
12 with the Occupational Safety and Health Act of 1970.

13 B. No person shall discharge, discriminate or take adverse  
14 personnel action against any employee because such employee has  
15 filed any complaint, or instituted or caused to be instituted any  
16 proceeding under or related to this act, or has testified or is  
17 about to testify in any such proceeding, or because of the exercise  
18 by such employee on behalf of himself or herself or others of any  
19 right affected by this act.

20 C. Within forty-eight (48) hours after the occurrence of an  
21 employment accident which is fatal to one or more employees or which  
22 results in hospitalization of ~~five~~ three (3) or more employees, the  
23 employer of any employees so injured or killed shall report the  
24 accident in writing to the Oklahoma City office of the Oklahoma

1 Department of Labor, in a manner prescribed by the Oklahoma  
2 Department of Labor. The Commissioner of Labor may require such  
3 additional reports as he or she deems necessary, including the  
4 official death certificate from the Oklahoma State Department of  
5 Health.

6 D. No rule or standard promulgated under this act shall, or  
7 shall be deemed to, establish legal standards of conduct or legal  
8 duties, the violation of which standards or duties would constitute  
9 negligence or gross negligence in any civil proceeding.

10 E. Every employer having twenty-five (25) or more full- or  
11 part-time employees shall:

12 1. Designate an employee who shall coordinate all safety  
13 programs of the employer;

14 2. Provide safety classes to each type or class of employee no  
15 less than quarterly, except that public schools shall only be  
16 required to provide safety classes or instruction to their employees  
17 during the school year. Provided further, public school employees  
18 who are certified personnel and are in compliance with federal OSHA  
19 occupational safety and health standards shall be exempt from such  
20 safety classes or instruction and shall not be included in the  
21 computation of the number of employees set forth in subsection E of  
22 this section for determining the requirement of such safety classes  
23 or instruction; and

24

1 3. Cooperate with the Oklahoma Department of Labor including  
2 allowing any announced inspection of the premises for the purpose of  
3 determining compliance with this subsection.

4 The provisions of this subsection shall not apply to any  
5 hospital which is subject to the rules of the U.S. Department of  
6 Health and Human Services, Health Care Financing Administration  
7 (HCFA), as set forth in 42 CFR Parts 405, 412, 416, 417, 440, 441,  
8 456, 482 and 489; Medicare and Medicaid Programs; Conditions of  
9 Participation for Hospitals, Final Regulations.

10 SECTION 21. AMENDATORY 40 O.S. 2001, Section 412, is  
11 amended to read as follows:

12 Section 412. A. Any person failing to comply with any standard  
13 or interfering with, impeding or obstructing in any manner the  
14 administration of standards pursuant to the provisions of the  
15 Oklahoma Occupational Health and Safety Standards Act, upon  
16 conviction, shall be guilty of a misdemeanor.

17 B. Any person who violates any of the provisions of the  
18 Oklahoma Occupational Health and Safety Standards Act, upon  
19 conviction, shall be guilty of a misdemeanor and in addition thereto  
20 may be enjoined from continuing such violation. Each day upon which  
21 such violation occurs shall constitute a separate violation.

22 C. The Attorney General, on the request of the Commissioner,  
23 shall bring an action against any person violating any of the  
24 provisions of the Oklahoma Occupational Health and Safety Standards

1 Act or violating any order or determination of the Commissioner  
2 promulgated pursuant to the Oklahoma Occupational Health and Safety  
3 Standards Act.

4 D. Any employer who willfully or repeatedly violates the  
5 requirements of the Oklahoma Occupational Health and Safety  
6 Standards Act, any standard or order promulgated pursuant to Section  
7 403 of this title, or regulations prescribed pursuant to this  
8 chapter, may be assessed a civil penalty of not more than Ten  
9 Thousand Dollars (\$10,000.00) for each violation. Fines shall be  
10 assessed as follows:

11 1. Serious violations - up to One Thousand Dollars (\$1,000.00)  
12 per violation;

13 2. Other than serious - up to One Thousand Dollars (\$1,000.00)  
14 per violation;

15 3. De minimis - no penalty;

16 4. Failure to abate - up to One Thousand Dollars (\$1,000.00)  
17 per day for each day during which such failure continues;

18 5. Violations that cause death - up to Ten Thousand Dollars  
19 (\$10,000.00) and/or six (6) months in jail; or

20 6. Knowingly make false statement, representation or  
21 certification in any application, record, report, plan, or other  
22 document filed or required to be maintained - Ten Thousand Dollars  
23 (\$10,000.00).

24

1       For the purposes of this section, "serious" means a substantial  
2 probability that death or serious physical harm could result from a  
3 condition which exists or from one or more practices, means,  
4 methods, operations or processes which have been adopted or are in  
5 use in such place of employment.

6       E. There is hereby created in the State Treasury a revolving  
7 fund for the Oklahoma Department of Labor to be designated the  
8 "Public Employee Occupational Safety and Health Revolving Fund".  
9 The fund shall be a continuing fund, not subject to fiscal year  
10 limitations, and shall consist of all monies collected by the  
11 Department pursuant to the provisions of the Oklahoma Occupational  
12 Health and Safety Standards Act. Expenditures from the fund shall  
13 be made upon warrants issued by the State Treasurer against claims  
14 filed as prescribed by law with the Director of State Finance for  
15 approval and payment.

16       SECTION 22.       AMENDATORY       40 O.S. 2001, Section 414, is  
17 amended to read as follows:

18       Section 414. A. The Commissioner shall not assert enforcement  
19 jurisdiction pursuant to Section 401 et seq. of this title over any  
20 occupational safety or health issue with respect to which a federal  
21 standard has been issued pursuant to Section (6) of Public Law  
22 91-596, also known as the Williams-Steiger Occupational Safety and  
23 Health Act of 1970.

24

1 B. The Commissioner shall provide competent occupational safety  
2 and health consultation, education and training for private and  
3 public employers in coordination with the Oklahoma Department of  
4 Career and Technology Education and other available community  
5 resources.

6 C. Such consultation shall be provided on a priority basis to  
7 those private employers ~~which, based on their certification, have~~  
8 ~~occupational injury and illness rates exceeding the national average~~  
9 ~~incidence rate for private employers of similar character in~~  
10 accordance with Title 29 of the U.S. Code of Federal Regulations,  
11 Part 1908, Consultation Agreements, the current U.S. DOL, OSHA  
12 Consultation Policies and Procedures Manual (CPPM), and in  
13 compliance with Section (6) of Public Law 91-596, also known as the  
14 Williams-Steiger Occupational Safety and Health Act of 1970 (29  
15 U.S.C.A., Section 655) and the Consultation and Cooperative  
16 Agreements pursuant to Section 21(d) of 29 U.S.C. Section 656.

17 D. No such consultation shall be provided except upon written  
18 request by the private employer.

19 E. Except when a condition of "imminent danger" exists, no  
20 reports, communication, or other information regarding safety and  
21 health hazards discovered by the Commissioner, pursuant to the  
22 administration of Section 401 et seq. of this title, or his or her  
23 representative in the workplaces of private employers, shall be  
24

1 reported to any enforcement authority whatsoever without the prior  
2 approval of the employer.

3 F. The Commissioner may, in providing services to private  
4 employers upon request, refer private employers for participation in  
5 other safety and health consultation, education and training  
6 programs including but not limited to the programs authorized by  
7 Section 7(C)1 of Public Law 91-596.

8 G. The Commissioner may, upon request, refer qualifying private  
9 employers to programs operated by the U.S. Department of Labor for  
10 recognition or for exemption from inspection by the U.S. Department  
11 of Labor Occupational Safety and Health Administration.

12 H. The Commissioner shall certify successful participation in  
13 the occupational safety and health consultation, education and  
14 training program pursuant to the provisions of Section 924.2 of  
15 Title 36 of the Oklahoma Statutes.

16 I. The Commissioner may promulgate such rules ~~and regulations~~  
17 as may be necessary to implement the provisions of this section.

18 J. As used in this section:

19 1. "Private employer" means a person engaged in a business  
20 affecting commerce who has employees, but does not include the  
21 United States or any state or political subdivision of a state; and

22 2. "Imminent danger" means any conditions or practices in any  
23 place of employment which are such that a danger exists which could  
24

1 reasonably be expected to cause death, or serious physical harm  
2 immediately.

3 SECTION 23. AMENDATORY 40 O.S. 2001, Section 452, is  
4 amended to read as follows:

5 Section 452. A. No contractor shall abate any friable material  
6 containing asbestos without having first obtained a license to do so  
7 from the Commissioner of Labor. The Commissioner shall issue an  
8 asbestos abatement license to a qualified contractor upon proper  
9 application, as determined by the Commissioner. The annual fee for  
10 such license shall be Five Hundred Dollars (\$500.00). A  
11 nonrefundable initial application fee of One Thousand Dollars  
12 (\$1,000.00) shall be charged. The Commissioner may deny a license  
13 to applicants whose past abatement performance for abatement of  
14 friable asbestos does not comply with federal and other states'  
15 requirements. A minimum waiting period of one hundred twenty (120)  
16 days will be required before issuance of a license to permit the  
17 Commissioner to perform a work performance investigation of the  
18 applicant.

19 The annual fee for examining and certifying workers employed by  
20 a contractor for asbestos abatement shall be Twenty-five Dollars  
21 (\$25.00). Uncertified workers shall not be used on any asbestos  
22 abatement projects.

23

24

1       The Commissioner of Labor shall charge a fee of Fifty Dollars  
2       (\$50.00) for a duplicate of any license issued pursuant to the  
3       Oklahoma Asbestos Control Act.

4       B. The state and political subdivisions thereof, counties and  
5       political subdivisions thereof and municipalities and political  
6       subdivisions thereof, and their supervisors and employees, shall be  
7       exempt from any certification fees required by this section when  
8       such entities act as a contractor. Any contractor not performing  
9       abatement work which falls under the jurisdiction of the  
10      Commissioner during the period of the issued license shall be  
11      considered a new applicant for purposes of licensing and training.

12      C. A fee of Six Hundred Dollars (\$600.00) shall be paid by  
13      contractors to the Department of Labor, to be deposited in the  
14      General Revenue Fund, for each separate containment area of any  
15      asbestos abatement project. There shall be a minimum of three  
16      inspections of each containment area. For projects which are not a  
17      part of a definite containment area, or are performed with multiple  
18      glovebags or miniature containments, a fee of Two Hundred Dollars  
19      (\$200.00), plus Five Dollars (\$5.00) per such glovebag or miniature  
20      containment, shall be made.

21      Asbestos abatement projects performed on properties owned by the  
22      state or any political subdivision thereof shall be exempt from this  
23      fee.

1 D. Any asbestos abatement contractor transporting asbestos-  
2 containing material shall be required to provide to the Commissioner  
3 a Certificate of Insurance by a carrier licensed to do business in  
4 the State of Oklahoma demonstrating a minimum of One Million Dollars  
5 (\$1,000,000.00) of environmental impairment insurance.

6 E. No state agency or political subdivision thereof, county or  
7 political subdivision thereof, or municipalities or political  
8 subdivisions thereof shall solicit or receive any estimate or bid  
9 for abatement of asbestos from any person or party who is not a  
10 licensed asbestos abatement contractor.

11 F. There is hereby created in the State Treasury a revolving  
12 fund for the Oklahoma Department of Labor to be designated the  
13 "Oklahoma Asbestos Control Revolving Fund". The fund shall be a  
14 continuing fund, not subject to fiscal year limitations, and shall  
15 consist of all monies collected by the Department pursuant to the  
16 provisions of the Oklahoma Asbestos Control Act. Expenditures from  
17 the fund shall be made upon warrants issued by the State Treasurer  
18 against claims filed as prescribed by law with the Director of State  
19 Finance for approval and payment.

20 SECTION 24. AMENDATORY 40 O.S. 2001, Section 456, is  
21 amended to read as follows:

22 Section 456. A. In addition to any administrative or civil  
23 penalty, any person who violates any of the provisions of the  
24 Oklahoma Asbestos Control Act or who violates any rule or order

1 promulgated pursuant thereto shall be guilty of a misdemeanor and  
2 may be enjoined from continuing such action. Upon conviction  
3 thereof, ~~said~~ the person shall be punished by imprisonment in the  
4 county jail for not more than six (6) months and by a fine of not  
5 less than One Hundred Dollars (\$100.00). Each day's violations  
6 shall constitute a separate violation.

7 B. The Attorney General shall, upon request of the  
8 Commissioner, bring an action for injunction against any person  
9 violating any provision of the Oklahoma Asbestos Control Act or  
10 violating any order or determination of the Commissioner. In any  
11 action for injunction, any finding of the Commissioner, after  
12 notice, shall be prima facie evidence of the facts found therein.

13 C. A district attorney, upon request of the Commissioner, shall  
14 prosecute any violation of the Oklahoma Asbestos Control Act.

15 D. In addition to any other penalty prescribed by law, any  
16 person who violates any of the provisions of the Oklahoma Asbestos  
17 Control Act or who violates any rule or order promulgated pursuant  
18 thereto shall be liable for a civil penalty, to be assessed by the  
19 Commissioner of Labor, or his or her designee, of not more than One  
20 Thousand Dollars (\$1,000.00) per offense. The Commissioner of  
21 Labor, or his or her designee, shall assess and collect any civil  
22 penalty incurred under this subsection and, in the Commissioner's  
23 discretion, may remit, mitigate or negotiate the penalty. In  
24 determining the amount of the penalty to be assessed, or the amount

1 agreed upon in any negotiation, consideration shall be given to the  
2 appropriateness of such penalty in light of the life of the business  
3 of the person charged, the gravity of the violation, and the extent  
4 to which the person charged has complied with the provisions of the  
5 Oklahoma Asbestos Control Act or rules or orders promulgated  
6 pursuant thereto or has otherwise attempted to remedy the  
7 consequences of the violation. Individual proceedings shall be  
8 conducted pursuant to the provisions of the Administrative  
9 Procedures Act.

10 SECTION 25. AMENDATORY 40 O.S. 2001, Section 463, is  
11 amended to read as follows:

12 Section 463. A. No fees shall be charged to public agencies.  
13 The fees provided for in this subsection shall not apply to  
14 amusement parks owned and operated by nonprofit corporations.

- 15 1. The annual ride registration fee shall be: \$25.00  
16 2. The inspection fee shall be:  
17 a. Kiddie Rides \$25.00  
18 b. Major Rides \$50.00  
19 c. Inflatable Ride \$25.00  
20 d. Water Park Ride \$100.00  
21 e. Return Trip Fee \$100.00  
22 f. Other Rides per hour \$100.00  
23 3. The annual waiver fee shall be:  
24 a. Noncomplex \$250.00



1 safety inspection requirements for obtaining such insurance and the  
2 date of the inspection.

3 The Commissioner may accept such insurance inspection as  
4 evidence sufficient to issue a certificate of inspection for the  
5 rides.

6 E. There is hereby created in the State Treasury a revolving  
7 fund for the Department of Labor to be designated the "Safety  
8 Standards Revolving Fund". The fund shall be a continuing fund, not  
9 subject to fiscal year limitations, and shall consist of all monies  
10 collected by the Department pursuant to the Amusement Ride Safety  
11 Act, the Oklahoma Welding Act and the Boiler and Pressure Vessel  
12 Safety Act. Expenditures from the fund shall be made upon warrants  
13 issued by the State Treasurer against claims filed as prescribed by  
14 law with the Director of State Finance for approval and payment.

15 SECTION 26. AMENDATORY 40 O.S. 2001, Section 469, is  
16 amended to read as follows:

17 Section 469. A. Any violation of the provisions of this act  
18 shall be a misdemeanor. Conviction thereof shall be punished by a  
19 fine not exceeding One Thousand Dollars (\$1,000.00) or not more than  
20 one (1) year in the county jail, or both such fine and imprisonment.  
21 Each day of violation shall constitute a separate offense.

22 B. The Commissioner shall have subpoena powers and shall have  
23 the right to seek injunctive relief to prevent the operation of any  
24 amusement ride covered by this act for lacking a current certificate

1 of operation. For any violation of the Amusement Ride Safety Act,  
2 the Commissioner may assess an administrative fine of not more than  
3 Two Thousand Five Hundred Dollars (\$2,500.00), which fine may be  
4 assessed in addition to any other penalties provided pursuant to  
5 this act.

6 C. Any denial of issuance of a Certificate of Operation, or any  
7 order issued by the Commissioner, or any Red Tag notification or  
8 assessment of an administrative fine may be appealed, and the  
9 appropriate party or parties shall be afforded the opportunity for a  
10 hearing pursuant to the provisions of the Administrative Procedures  
11 Act, if a written request is received by the Oklahoma Department of  
12 Labor within fifteen (15) days of the denial letter or notification  
13 or assessment of any fine.

14 SECTION 27. This act shall become effective November 1, 2008.

15  
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